

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Index No.  
07 Civ. 3543

MICHAEL BRADFORD, PAT DAMIANI, JR., JOSEPH  
LEONARDIS, JOHN DISPENZA, ROBERT DIZZINE, FRANK  
DOLLBAUMN, RICH GILMORE, JOHN HILL, PHILIP HUGGINS,  
JAMES JOHANNEMANN, JOHN MARALA, JOHN A. MARALA,  
ROBERT NIGRO, RAYMOND PANTEL, RICHARD PARKER,  
TIMOTHY RILEY, JEFF SEIDEL, CARL TALLARDY, ALLAN  
THOMPSON, JR., JAMES SASS, JR. and SANFORD WHITMAN,  
AS TRUSTEES OF THE IBEW LOCAL 363 PENSION,  
WELFARE, ANNUITY AND J.T. FUNDS,

Plaintiffs,

-against-

ANSWER

DAVID L. KEMPTON, INC., a/k/a L.I.A.  
ELECTRIC CORP.,

Defendant

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The Defendant, DAVID L. KEMPTON, INC., improperly sued herein as DAVID L. KEMPTON, INC. a/k/a L.I.A. ELECTRIC CORP., by its attorneys, Barr & Haas<sup>LLP</sup>, answering the Complaint herein, respectfully:

1. Denies each and every allegation contained in the Complaint.

AS AND FOR A FIRST, SEPARATE AND DISTINCT  
DEFENSE TO THE COMPLAINT THE DEFENDANT DAVID  
L. KEMPTON, INC., RESPECTFULLY ALLEGES:

2. David L. Kempton, Inc. was not a signatory to any collective bargaining agreement between the parties and is therefore not a responsible party as described in this agreement.

AS AND FOR A SECOND, SEPARATE AND DISTINCT  
DEFENSE TO THE COMPLAINT THE DEFENDANT DAVID  
L. KEMPTON, INC., RESPECTFULLY ALLEGES:

3. That the defendant, David L. Kempton, Inc. never employed any of the individual employees referred to in paragraph "12" of the Complaint and is therefore not responsible for the payment of any fringe benefits or for the submission of any reports to the Plaintiff.

WHEREFORE, the Defendant David L. Kempton, Inc. requests that the Complaint herein be dismissed together with the costs and disbursement of this action.

Dated: Spring Valley, N.Y.  
September 20, 2007

BARR & HAAS <sup>LLP</sup>  
Attorneys for Defendant  
David L. Kempton, Inc.

By:                     /s/                      
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